

D. AND J. WILKINSON.

[To accompany bill H. R. No. 33.]

FEBRUARY 29, 1840.

Mr. RUSSELL, from the Committee of Claims, made the following

REPORT:

*The Committee of Claims, to whom was referred the petition of David and James Wilkinson, heirs-at-law of John Wilkinson, deceased, report :*

That this claim was presented to Congress at the 1st session of the 24th Congress, and, in the House of Representatives, referred to the Committee of Claims, who, after an examination thereof, made a report, through their chairman, the Hon. Elisha Whittlesey, to the House of Representatives, in the following words :

"The Committee of Claims, to whom was referred the petition of David and James Wilkinson, report :

"That this claim is for the destruction of the buildings of their father, John Wilkinson, at Black Rock, during the late war, by the British, when the said buildings were in the military occupation of the United States, and their destruction was in consequence thereof.

"The committee, on examining the proof, found it defective ; and in a written communication to one of the petitioners, directed his attention to the rules and regulations that had been applied to this class of cases. They think time should be given to perfect the proof, and submit the following resolution :

"*Resolved*, That the Committee of Claims be discharged from the further consideration of the petition of David and James Wilkinson, and that the same, with the papers, do lie on the table."

On the 14th of December, 1837, the claim was again referred, in the House of Representatives, to the Committee of Claims, with additional testimony, which obviated the objections theretofore taken to the proof ; but no report at that session appears to have been made thereon. It was again referred, at the 3d session of the 25th Congress, and a report made thereon in favor of the claim, and a bill introduced for the relief of the petitioners ; but no further action appears to have been had on said bill at that session. That report the committee have examined, approve thereof, and adopt it as a part of this report ; and herewith report a bill for the petitioners' relief.

JANUARY 2, 1839.

*The Committee of Claims, to whom was referred the petition of David and James Wilkinson, report :*

That the petitioners ask relief, as heirs of John Wilkinson, deceased, for a house, barn, and out-houses, destroyed by the British during the late war,

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and situate near the Niagara river, in the vicinity of Black Rock, in the State of New York.

The petitioners account for this claim not having been earlier made, that their father, after the destruction, was reduced to indigence, and in the year 1814 removed to the State of Ohio, where he died in 1815; and that his family was left poor, and not in a condition to prosecute the claim.

The petition is accompanied by the depositions of Conrad House, David W. Hawley, and William Scott, who all testify that they were in the service of the United States at the time said property was destroyed; at which time, and for some time previous, the dwelling-house was occupied by American troops, under and in obedience to the command of Captain Asa P. Haines, who was an officer in the United States service.

One of the said witnesses states that he was one of the American troops quartered in said house when the British destroyed it. The witnesses further state that at that time the house also contained a quantity of arms and military stores belonging to the United States army.

The destruction took place at the time when the British forces crossed over and destroyed Black Rock, about the middle of December, 1813.

The deposition of Timothy S. Hopkins is also produced. He says that he was a brigadier general in the service of the United States in the years 1813 and 1814, and commanded the post of Black Rock; that, for some time previous to the 1st of January, 1814, he gave general orders to captains and other officers to occupy all buildings from Black Rock down to ——— with troops and stores; and he adds, he verily believes that all or nearly all the buildings along said river, between said points, were so occupied. This deponent further says, that about the 13th of December, 1813, Captain Asa P. Haines proceeded down said river from Black Rock with a body of troops, in pursuance of the orders of deponent. Several witnesses prove that said Captain Haines died about ten or twelve years ago. Some of the witnesses state the value of the said dwelling-house to have been \$1,500, and others value it as high as \$2,000.

There is no proof that any part of the premises were occupied by the American troops, when destroyed, except the dwelling-house.

The committee are of opinion that there is, in this case, the requisite proof that said dwelling-house was occupied as a military post, under the authority of an officer of the United States, and that the destruction was in consequence of such occupation.

A bill is, therefore, herewith reported for relief in the sum of \$1,500, the lowest valuation made of said dwelling-house.